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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,412	12/01/2003	Richard C. Elton	Elton-1	1064
<div>Eric J. Nuss 7980 Drumbeat Place Jessup, MD 20794</div>				
			<div>EXAMINER WIEHE, NATHANIEL EDWARD</div>	
			<div>ART UNIT 3745</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 11/14/2007</div>	<div>DELIVERY MODE PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/724,412

Applicant(s)

ELTON ET AL.

Examiner

Nathan Wiehe

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-22 and 31-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-22 and 31-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Withdraw of Finality

Due to a scanning error pages 5 and 8 of the previous amendment, dated 17 May 2007, were not made available to the Examiner. Therefore, the finality of the rejection of the last Office action is withdrawn. Any inconvenience to the applicant and applicant's representative is regretted.

Response to Arguments

Applicant's arguments with respect to claims 1,2,5,31 and 32 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claims 2 and 32 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 32 is a substantial duplicate of claim 2 and thereby does not further limit the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,5,7,8,11,12,31-33,35,36,39,40, rejected under 35 U.S.C. 102(b) as being anticipated by Holder, Jr. (3,697,198), hereinafter "Holder". Holder discloses a

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cook fan capable of preventing boiling over of a cooking container that includes a base (33) and a fan attached to the base further comprising a motor (18) and blades (27) attached to the motor (18). The base (33) clamps to the cooking container (14) by sliding engaging with the edge of the cooking container and is made of a material able to withstand temperatures greater than 200° F. The rubber coated bent ears of Holder allow for angularly adjustable positioning of the fan relative to the container (14). Further, Holder's fan is battery operated.

Claims 16 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Green (5,658,128). Green discloses a cook fan (1) used to prevent boiling over of a cooking container (50) including a "stabilized" base (4), thereby preventing tipping over, a fan (20), including a motor and fan blades, and a connector member (3) allowing the position of the fan to be adjusted. The fan is driven by batteries (22) that may be recharged through a cord (14) providing electrical power to the fan.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holder, Jr. (3,697,198), hereinafter "Holder", in view of Duddy (3,917,940). Holder discloses the invention substantially as claimed except for the use of a magnetic base. Duddy discloses a small appliance (18) mounted to an adjustable arm (16) including a

magnetic base member (24,26). The magnetic base allows for use on horizontal, vertical or inclined surfaces that do not provide a hooking or clamping location (Duddy column, 1 lines 34-41). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fan of Holder by including a magnetic base as taught by Duddy to allow for use on vertical, horizontal or inclined surfaces absent of a clamping location.

Claim 9,13-15 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holder, Jr. (3,697,198), hereinafter "Holder", in view of Green (5,658,128).

In regard to claims 9 and 37, Holder discloses the invention substantially as claimed except for the use of a gooseneck. Green discloses a cook fan used to prevent boil over of a cooking container. Green also discloses the use of a gooseneck (3) allowing for increased directional control of the airflow generated by the fan. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Holder by including a gooseneck as taught by Green for the purpose of increasing the directional control of the airflow generated by the fan.

In regard to claims 13-15, Holder does not disclose the use of rechargeable batteries of a fan powered by an electrical cord. Green discloses a cook fan used to prevent boil over of a cooking container. Green's fan is powered by rechargeable or an electrical cord (14) that may also be used to recharge the batteries thereby providing for longer battery life. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fan of Holder by including

rechargeable batteries and an electrical cord as taught by Green for the purpose increasing the battery life of the device.

Claims 10 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holder, Jr. (3,697,198), hereinafter "Holder", in view of Thompson (5,370,500). Holder discloses the invention substantially as claimed except for the use of a latch mechanism for vertical adjustment of the fan. However, it is well known in the art of fan supports to provide a height adjustment mechanism. One such common mechanism is the use of two telescoping support elements relatively adjustable through the use of a latch selectively inserted into a plurality of holes. Thompson discloses a fan (11) including a support (14) with a vertical adjustment mechanism comprising a latch (38) and holes (34) as discussed above. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fan of Holder by including a support with a latch and hole vertical adjustment mechanism since such an arrangement is commonly used in the art, as evidenced by Thompson, to allow for vertical adjustment of the fan.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green (5,658,128) in view of Duddy (3,917,940). Green discloses the invention substantially as claimed except for the use of a magnetic base. Duddy discloses a small appliance (18) mounted to an adjustable arm (16) including a magnetic base member (24,26). The magnetic base allows for use on horizontal, vertical or inclined surfaces that do not provide a hooking or clamping location (Duddy column, 1 lines 34-41). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

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made to modify the fan of Green by including a magnetic base as taught by Duddy to allow for use on vertical, horizontal or inclined surfaces absent of a clamping location.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zeitlin discloses a fan including a clamp mechanism to connect the fan to a cooking container. Poulin, Jr. discloses a cook fan to prevent boil over of a cooking container.

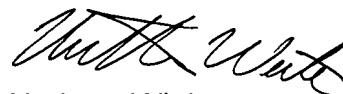
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Wiehe whose telephone number is (571)272-8648. The examiner can normally be reached on Mon.-Thur. and alternate Fri., 7am-4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571)272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nathan Wiehe
Examiner
Art Unit 3745



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11/13/07